

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

TOMMY LAQUADE STEWART,

Petitioner,

v.

CALVIN JOHNSON, *et al.*,

Respondents.

Case No.: 2:21-cv-01490-APG-BNW

**ORDER**

This action is a petition for a writ of habeas corpus, pursuant to 28 U.S.C. § 2254, by Tommy Laquade Stewart, an individual incarcerated at Nevada's High Desert State Prison. Stewart initiated this action pro se on August 9, 2021. I appointed counsel for Stewart on August 16, 2021 (ECF No. 3), and appointed counsel appeared for Stewart on September 17, 2021 (ECF No. 8). Respondents appeared on August 17, 2021 (ECF No. 6). I will now set forth a schedule for further proceedings in this case.

I THEREFORE ORDER that, unless otherwise ordered, the following schedule will govern further proceedings in this case:

Amended Petition. Petitioner will have 90 days from the date of this order to file an amended petition for writ of habeas corpus.

Response to Amended Petition. Following the filing of an amended petition, Respondents will have 90 days to file an answer, or other response, to the amended petition.

Reply. Petitioner will have 60 days following the filing of an answer to file a reply. Respondents will thereafter have 30 days following the filing of a reply to file a response to the reply.

1 Briefing of Motion to Dismiss. If Respondents file a motion to dismiss, Petitioner will  
2 have 60 days following the filing of the motion to file a response to the motion. Respondents will  
3 thereafter have 30 days following the filing of the response to file a reply.

4 Discovery. If Petitioner wishes to move for leave to conduct discovery, Petitioner must  
5 file such motion concurrently with, but separate from, the response to Respondents' motion to  
6 dismiss or the reply to Respondents' answer. Any motion for leave to conduct discovery filed by  
7 Petitioner before that time may be considered premature, and may be denied, without prejudice,  
8 on that basis. Respondents must file a response to any such motion concurrently with, but  
9 separate from, their reply in support of their motion to dismiss or their response to Petitioner's  
10 reply. Thereafter, Petitioner will have 20 days to file a reply in support of the motion for leave to  
11 conduct discovery.

12 Evidentiary Hearing. If Petitioner wishes to request an evidentiary hearing, Petitioner  
13 must file a motion for an evidentiary hearing concurrently with, but separate from, the response  
14 to Respondents' motion to dismiss or the reply to Respondents' answer. Any motion for an  
15 evidentiary hearing filed by Petitioner before that time may be considered premature, and may be  
16 denied, without prejudice, on that basis. The motion for an evidentiary hearing must specifically  
17 address why an evidentiary hearing is required and must meet the requirements of 28 U.S.C.  
18 § 2254(e). The motion must state whether an evidentiary hearing was held in state court, and, if  
19 so, state where the transcript is located in the record. If Petitioner files a motion for an  
20 evidentiary hearing, Respondents must file a response to that motion concurrently with, but


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1 separate from, their reply in support of their motion to dismiss or their response to Petitioner's  
2 reply. Thereafter, Petitioner will have 20 days to file a reply in support of the motion for an  
3 evidentiary hearing.

4 Dated: September 23, 2021

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7 ANDREW P. GORDON  
8 UNITED STATES DISTRICT JUDGE  
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